OPEN MEETING COMPLIANCE BOARD OPINIONS

TOPICAL INDEX

July 1, 1992 through December 31, 2009

SUBJECT	Vol. Opn. Page
◆ Administrative Function	
SEE ALSO EXECUTIVE FUNCTION EXCLUSION	
Within Exclusion, discussion of: Acting pursuant to municipal charter, selection of clerk-treasurer	653
Acting pursuant to statute, appointment of planning board members	657
Briefing of school board on contract approval by superintendent solely for informational purposes	6145
Complaint against licensee or regulatory board	5102
Consideration of motion to unseal minutes of closed session	5105
School board's discussions of internal school system audit	623
School board's review of ethics panel recommendation	5121
 Outside Exclusion, discussion of: Briefing of school board on contractual matter if board's consent subsequently required 	6145
Discussions of county department consolidation	6180
Issuance of quitclaim deed	635
◆ Advisory Function	
Authority of group derived from department head, not from law or Governor:	560
◆ CLOSED SESSION DECISIONS	
Public body has discretion as to those in attendance, provided some apparent basis	6171
Final action in closed session: permitted	1 94-573
Vote to select developer: permitted	5126

Subject	Vol.	Opn.	Page
CLOSED SESSION PROCEDURES			
 ♦ General After-the-fact addition of reasons for closed session 	5		177
Conducting closed session in separate room permissible as long as any interested observer allowed access to observe process by which session closed	5		105
Impromptu hallway meeting: subject to all procedural requirements	1	93-1	20
Oral presentation at next open session about prior closed session: not required	3	03-18.	340
 Practices permitted Separate closed session or closed session before or after open session 	3	03-4	264
+ Practices in violation Failure to meet procedural requirements	5	00-11.	136
Invoking exception not linked to anticipated discussion	3	03-19.	345
 Voting Motion to close session: must be made by member of public body 	3	02-8	209
Vote to close must be held immediately preceding closed session	3	00-2	4
Vote to close must be held in open session	1 1 1 2	97-1 97-4	191 201 218
+ Practices permitted Open session in smaller room			
If record reflects members present and any dissenting, voice vote permitted	6		23
Vote at same meeting, shortly before closed session	6		127

SUBJECT	voi. Opn. Page
CLOSED SESSION PROCEDURES (Cont'd.) \$\display Voting (Cont'd.)\$	
+ Practices in violation Failure to vote	3 02-2173 3 03-11307
Passive assent without documentation	5189
Permitted if individual votes are recorded	3 02-6197
Vote at one meeting to close the next: violation	1 94-573 1 95-8133 5160 5177 5184
Vote during session open to the public not rendered invalid by fact no member of the public present	69
 Written Statement Generally Posting on website not required 	5165
+ Practices permitted Failure to post on Internet	5165
Identifying topic but not discussing it in meeting	1 93-947
Inclusion of statement in agenda	446
Omitting identity of anticipated participants	1 93-947
Omitting identity of appointee	6127
Omitting identity of third party proposing action under discussion	572
Omitting specification of "reason for closing" when clear from other parts of statement	4188
Preserving confidential information	1 92-516 1 93-223 1 97-10242
Reliance on written statement prepared by staff in advance as accurate at time of closure	677

SUBJECT Vol. Opn. Page

◆ CLOSED SESSION PROCEDURES (Cont'd.) ♦ Written Statement (Cont'd.) + Practices permitted (Cont'd.) Statements providing purpose of closed session, statutory authority, 6.....121 and description of topics to be discussed Topic of discussion described briefly Topic of discussed described in a single phrase rather than a series 4......188 of items + Practices in violation Altering statement during closed session Document failed to satisfy Act's requirement relating to minutes 6......96 97-5....220 Failing to prepare written statement 3 00-3....8 02-2....173 3 02-13....233 03-11....307 5......86 5......139 5......184 Failure to timely disclose 01-12.... 136 Omitting reason for closing Omitting specific statutory cite 5......149 Omitting topic to be discussed 92-1.....1 4......38 Oral discussion of basis for closing session, later recorded in 92-4.....13

APPENDIX F

minutes

Preparing written statement before or after meeting

92-5.....16

00-2.....4

01-16.... 147

1

3

Subject	Vol.	Opn.	Page
CLOSED SESSION PROCEDURES (Cont'd.)			
+ Practices in Violation (Cont'd.) Topic description reiterating statutory authority	3 4 4 5 5 5	01-6 03-17.	335 114 142 161 14 33 149
Uninformative boilerplate		96-12. 97-10.	
► COMPLIANCE BOARD – AUTHORITY AND PROCEDURES			
 Generally Minutes of closed sessions considered by public body as sealed – obligation to treat as confidential 	6		192
 Complaint Basis: good-faith belief that Act was violated after reasonable inquiry into available facts 	3	01-14.	143
Complaint should be limited to requirements of the Act	6		127
Failure to respond in a timely manner	6		203
Limitations period of 45 days inapplicable	3	03-20.	352
Must identify public body	6		171
Neither party processes burden of proof	6		77
Public body no longer in existence: complaint dismissed	4		111
Sufficient detail if public body may identify meeting and allegations			

SUBJECT Vol. Opn. Page

◆ COMPLIANCE BOARD – AUTHORITY AND PROCEDURES (Cont'd.) *♦ Jurisdictional limits* Disclosure of information about closed session by public body member 99-14.... 77 2 no authority to address 95-2....113 Enforcing provisions of Act: no authority 1 97-1....201 1 Interpreting judicial review provision: no authority Interpreting quorum provision of municipal charter: no authority 4......6 99-14....77 Open Meetings Act issues only 3 01-14.... 143 01-15.... 145 3 6......164 **♦** Opinions Allegations related to laws other than Open Meetings Act: 98-1.......1 98-6.....21 2 not addressed 2 98-9.....31 2 99-6.....49 94-1.....56 Disputed issues of fact: cannot be resolved 1 1 94-8.... 101 2 99-4.....43 2 99-13....74 2 99-16....80 3 01-12.... 136 3 01-13....140 Insufficient information about nature of meetings is presented: no opinion issued Public body's exercise of discretion whether to invoke exceptions: 4......58 not addressed Public body's summary of discussion at closed session: presumed to be accurate absent evidence to the contrary 4......104 03-1....255 Reconsideration of prior opinion – standards 3 *♦* Response to complaint Exception not cited by public body in written statement prior to closed 93-11....53 94-5.....73 session may not be asserted subsequently as justification for 1 94-7.....96 closing session 1

	Subject	Vol.	Opn.	Page
*	COMPLIANCE BOARD – AUTHORITY AND PROCEDURES (Cont'd.)			
	♦ Response to complaint (Cont'd.) Failure to provide requested materials: violation	3 5	03-20	
	Failure to respond: violation	4	00-1	186
+	EXCEPTIONS PERMITTING CLOSED SESSIONS			
	♦ Business Relocation, §10-508(a)(4) Consideration of sale of land within county-owned business park: within exception	5		72
	Discussion of collateral matters expected to be addressed in evaluating business proposal: within exception	6		192
	Lease of governmental controlled property to private entity: within exception	5		86
	Proposal by business entity to move from one site to another in Maryland: within exception	1 2	93-3 99-16	
	Public university's relocated facility: outside exception	2	99-8	56
	 ♦ Collective Bargaining, §10-508(a)(9) Discussion between county commissioners and school board about funds available for potential contract: within exception 	3	02-15	245
	Discussion of existing collective bargaining agreements: outside exception	4		104
	♦ Competitive Bidding, §10-508(a)(14) Advantages / disadvantages of RFP for audit services: Within exception	5		177
	Disposition of municipal property without competitive process: outside exception	4		76
	 Criminal Investigation, §10-508(a)(12) Discussion of investigation in which public body has no role: within exception 	3 5	00-11	50 42

SUBJECT	Vol.	Opn.	Page
EXCEPTIONS PERMITTING CLOSED SESSIONS (Cont'd.)			
 ♦ Examinations, §10-508(a)(11) Discussion of electrician's examination, as part of process for obtaining a certificate of registration: within exception 	1	92-4	13
<i>♦Investment of public funds, §10-508(a)(5)</i> Preliminary discussion of possible project for Revenue Authority support: no opinion possible	4		114
♦ Legal Advice, §10-508(a)(7)			
→ Generally Bona fide expectation of need for legal advice justifies use of exception even if discussion obviates need for advice	5		172
Existence of attorney-client privilege not a prerequisite to reliance on exception	5		33
Initiation by counsel where public body aware of general subject matter permissible	6		127
Within exception Advice effectively determining public body's decisions	1 1	96-6 96-7	169
Advice on advertisement on municipality's buses	5		146
Advice on individual compliance with ethics law	1	92-1	1
Consulting with counsel regarding the lack of a lease on municipal property used by private group	5		160
Contract extension	5		177
Fact that issue discussed with counsel earlier or lack of litigation not determinative	6 6		77
Lease provisions	4		161
Legal consequences of providing quitclaim deed	6		35
Legal ramifications relating to negotiations with developer	5		130
Liability and related issues arising from possible agreement between town and private school over use of town park	3	03-8	293

Subject	Vol.	Opn.	Page
► EXCEPTIONS PERMITTING CLOSED SESSIONS (Cont'd.) \$\display Legal Advice, \(\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \			
+ Within exception (Cont'd.) Monetary offers to avoid litigation	3	02-13.	233
Participation by non-lawyer who supplies information pertinent to counsel's formulation of legal advice	1	92-1	1
Possible cancellation of contract	3	03-19.	345
Presentation on compliance with open government laws			
Zoning board's discussion with counsel about hearing requirements in a controversial matter	1	97-6	224
+ Outside exception Counsel not present	3	00-5	16
Instructions to counsel on how to proceed in negotiations with developer on public body's behalf	5		135
Policy deliberation or any other aspect of legislative process	1	95-11.	145
Pursuing the outsourcing of municipal services	6		104
Report from non-lawyer about counsel's advice; counsel must be present	1 1 1	94-5 94-7	35 73 96 113
Substantive decisions by public body as to content of contract	6		127
Topics beyond rendering of legal advice	1 1 1 1 1 3 6	93-11. 95-2 95-11. 96-6 97-1	113 145 169 201 16
Topic with incidental legal ramifications	1	93-11.	53

Subject	Vol.	Opn.	Page
EXCEPTIONS PERMITTING CLOSED SESSIONS (cont'd.)			
\$ Litigation, §10-508(a)(8)			
→ Within exception Effect of adoption of legislative findings on litigation	3	00-14.	61
Hearing requirements in a controversial zoning matter	1	97-6	224
Pending or potential litigation even if counsel is not present	1	94-5	73
Pending or potential litigation, including settlement options, whether public body would be plaintiff or defendant	1	94-1	56
+ Outside exception Citizen complaint to federal agency	3	02-13.	233
Litigation not yet a concrete possibility	1 1		38
Underlying policy issue not directly related to litigation	1	94-1	56
♦ Other Law, §10-508(a)(13) Preserving attorney-client privilege	1	94-5	73
♦ Personnel, §10-508(a)(1)			
+ Within exception, discussion of: Alleged mishandling of funds by employee	5		42
Appointment of town treasurer	3	03-11.	307
Compensation for five individuals, related to specific facts about each individual	4		38
Creation of new position linked to a specific employee	1	94-5	73
Hiring of specific individual	1	94-5	73
Job description and employment status of town manager	1	92-1	1
Job status of particular employees under jurisdiction of another public body	4		188
Licensing of specific employee	1	94-5	73
Management capabilities of individuals	3	02-12.	227

Subject	Vol.	Opn.	Page
EXCEPTIONS PERMITTING CLOSED SESSIONS (Cont'd.)			
♦ Personnel, §10-508(a)(1) (Cont'd.) Offer to job applicant	3	02-1	171
Performance of particular job responsibility	2	99-4	43
Raises and promotions for specific employees	1	94-5	73
Review of city manager's performance	6		104
School superintendent's change of duties	1	95-5	123
School superintendent's contract	3	03-4	264
Status of specific county employees in the event of transfer to city's jurisdiction	1	93-11.	53
+ Outside exception, discussion of: Attendance at a reception and meeting	1	94-5	73
Budgetary impact of rising gas prices	5		42
Department audit	6		92
Discussions of county department consolidation, severance packages, layoff timing, and alternative options	6		180
Fringe benefits for a class of employees	1	94-5	73
Hiring classes of employees	3	00-15.	67
Liquor service at an official dinner	1	94-5	73
Merging two purchasing departments	1	97-15.	255
New position and pay increases for categories of employees	3	03-17.	335
Outsourcing municipal services	6		104
Pay adjustment policy	1	94-5	73
Policy issues related to a town newsletter	2	99-4	43
Procurement of call forwarding service	1	94-5	73
Proposed annexation	5		42

Subject	Vol.	Opn.	Page
EXCEPTIONS PERMITTING CLOSED SESSIONS (Cont'd.) \Leftrightarrow Personnel, §10-508(a)(2) (Cont'd.)			
+ Outside exception, discussion of: (cont'd.) Retention policy	1	94-5	73
Spaces at police academy	1	94-5	73
♦ Procurement, §10-508(a)(14)			
+ Within exception, discussion of: Strategy for project to be put out to bid	1	94-5	73
Vote to select particular developer	5		126
+ Outside exception, discussion of: Monetary offers to well owners	3	02-13.	233
Negotiation strategy not involving competitive bidding or proposals	1	97-8	233
♦ Property Acquisition, §10-508(a)(3)			
** Within exception, discussion of: Possible acquisition of a portion of property for public parking	2	99-16.	80
Possible lease of property for public library	5		10
Public purpose aspects of acquisition	5		172
 Outside exception, discussion of: Property acquisition if public body lacks power to acquire property under discussion 	1	97-8	233
Sale of vehicles and acquisition of new ones	1	94-5	73
Transfer of public body's property interest	6		35
♦ Public Security, §10-508(a)(10)			
+ Outside exception, discussion of: Procedures for handling petty cash	1	94-5	73

Subject	Vol.	Opn.	Page
♦ Executive Function Exclusion			
SEE ALSO ADMINISTRATIVE FUNCTION			
Within Exclusion, discussion of: Administration of existing leave policy	1	96-5	166
Administrative and budgetary matters by community college board	4		28
Administrative and housekeeping matters concerning school system	3	00-10	39
Administrative matters by municipal planning commission	1	92-3	10
Administrative matters by Wicomico County Council	3	02-10	218
Agreement to dismissal of lawsuit filed against county council, absent any reconsideration of council's prior policy decisions	4		67
Appointment by county commissioners to fill planning commission vacancy	2	99-5	45
Appointment by school board of interim superintendent	1	95-5	123
Appointment by town council to fill council vacancy	1	97-14	252
Audit report, manner in which it would be released	3	00-15	67
Budgetary administration not involving proposal to amend budget	1	93-2	23
Budget preparation and department head meetings by Wicomico County Council	3	01-1	74
Budget preparation, financial oversight, and investment decisions by Pratt Library Finance Committee	3	01-10	122
Choice of newspaper for legal advertising	1	96-13	195
Complaint against electrician by regulatory board	1	92-4	13
Complaint against licensee by regulatory board	5		102
Construction of barrier between elementary school grounds and adjacent retail property	3	00-12	53
Dismissal of employee	1	96-5	166
Effect of cuts in state aid to counties	1	93-2	23

Subject	Vol.	Opn.	Page
◆ EXECUTIVE FUNCTION EXCLUSION (cont'd.)			
Within Exclusion, discussion of: (cont'd.) Evaluation of school superintendent's performance	1 3		123
Exercise of supervisory authority over town manager's preparation of compensation and benefit plans	2	98-7	24
Existing collective bargaining agreements	4		104
Future budget options	2	99-10.	64
Hearing by municipal ethics commission on complaint of alleged ethics violation	1	93-4	30
Hospital management issues when county commissioners have oversight responsibility over hospital	1	92-2	6
Interview process for filling school board vacancy	4		182
Management issues under existing program and information briefing on possible future budgetary impacts	3	02-9	211
Merging of county and city purchasing departments under current law	1	97-15.	255
Open Meetings Act procedures	5		33
Oversight of election board performance	2	98-1	1
Payment of bill under current budget	4		197
Personnel grievance hearing	4		76
Preliminary budget matters between department heads and Wicomico County Council	1	97-16.	261
Press release about a controversial city event	1	95-8	133
Procedure to regulate public comments by members of a public body	1	97-8	233
Proposed development on border of municipality	3	00-4	13
Relationship between existing sewer connection ordinance and prior sewer maintenance agreement with landowner	3	00-7	26
Remedies for breach of franchise agreement	5		7
Remedies in enforcing loan agreement	1	95-7	129

	SUBJECT	V 01.	Opn.	Page
>	EXECUTIVE FUNCTION EXCLUSION (cont'd.)			
	♦ Within Exclusion, discussion of: (cont'd.) Request for appointment of counsel and payment of fee	4		197
	School Board's review of its ethics panel recommendation	5		121
	Solicitation of advice from colleagues by town council member who had certain administrative responsibilities	2	98-6	21
	Specific schools eligible for reconstitution by State Board of Education	3	01-11	127
	♦ Outside Exclusion, discussion of: Amendment to inter-governmental agreement	3	02-10	218
	Changes in law to achieve merger of county and city purchasing departments	1	97-15	255
	Composition of local management board	3	02-3	182
	Contract amendment	1	95-5	123
	Contract negotiation	4		127
	Developer's proposal to buy property and convert it to low-income housing	2	99-16	80
	Discussion with potential contractor	4		168
	Effect of annexation agreement on proposed zoning ordinance	4		127
	Franchise reassignment	5		7
	Law enforcement matter beyond public body's jurisdiction	5		42
	Mission of library	3	01-10	122
	Municipal governance – general topics	3	02-12	227
	Municipal governance issues in wake of charter amendment	3	02-11	224
	Pay adjustment process	5		76
	Personnel matters within jurisdiction of another public body	4		188
	Petition drive within special tax district	1	94-7	96
	Policy about attendees' desire to address public body	1	95-2	113

Subject	Vol.	Opn.	Page
EXECUTIVE FUNCTION EXCLUSION (cont'd.)			
Outside Exclusion, discussion of: (cont'd.) Preliminary aspects of policy and contractual matters	4		28
Procedures for school board's recommendation to Governor about board vacancy	4		163
Resigning school superintendent's waiver of part of salary	3	01-18	159
Town council's position on General Assembly bill to authorize county tax	4		12
Transportation issues not administered by public body	5		60
LEGISLATIVE FUNCTION			
Within function, discussion of: Briefing about proposed city ordinance	1	93-6	35
County council's position on General Assembly bill to authorize county tax	4		12
 Outside function, discussion of: Making an appointment, rather than approval of a proposed appointment 	1	95-5	123
Town council's position on General Assembly bill to authorize county tax	4		12
LICENSING MATTERS			
Regulatory body's conduct of occupational licensing examination	1	92-4	13
"MEETING"			
 ♦ Generally: Participation by commissioners in party central committee meeting 	3	03-6	. 278
Public body's consideration of public business in meeting of entity that is not a public body	1 1 1 1 1 1 2	92-2 94-9 95-4 95-10 96-3 96-10 98-8	104 120 142 157 183
	EXECUTIVE FUNCTION EXCLUSION (cont'd.) \$\phi\$ Outside Exclusion, discussion of: (cont'd.) Preliminary aspects of policy and contractual matters Procedures for school board's recommendation to Governor about board vacancy Resigning school superintendent's waiver of part of salary Town council's position on General Assembly bill to authorize county tax Transportation issues not administered by public body LEGISLATIVE FUNCTION \$\phi\$ Within function, discussion of: Briefing about proposed city ordinance County council's position on General Assembly bill to authorize county tax \$\phi\$ Outside function, discussion of: Making an appointment, rather than approval of a proposed appointment Town council's position on General Assembly bill to authorize county tax LICENSING MATTERS Regulatory body's conduct of occupational licensing examination "MEETING" \$\phi\$ Generally: Participation by commissioners in party central committee meeting Public body's consideration of public business in meeting of entity	**EXECUTIVE FUNCTION EXCLUSION (cont'd.) **Outside Exclusion, discussion of: (cont'd.) Preliminary aspects of policy and contractual matters **A Procedures for school board's recommendation to Governor about board vacancy **Resigning school superintendent's waiver of part of salary **Town council's position on General Assembly bill to authorize county tax **Transportation issues not administered by public body **LEGISLATIVE FUNCTION **Within function, discussion of: Briefing about proposed city ordinance **County council's position on General Assembly bill to authorize county tax **Outside function, discussion of: **Making an appointment, rather than approval of a proposed appointment **Town council's position on General Assembly bill to authorize county tax **LICENSING MATTERS Regulatory body's conduct of occupational licensing examination **MEETING** **Generally: Participation by commissioners in party central committee meeting **3 Public body's consideration of public business in meeting of entity that is not a public body **1 **1 **1 **1 **1 **1 **1 *	## A Cutside Exclusion, discussion of: (cont'd.) Preliminary aspects of policy and contractual matters Procedures for school board's recommendation to Governor about board vacancy Resigning school superintendent's waiver of part of salary Town council's position on General Assembly bill to authorize county tax Transportation issues not administered by public body ### A County council's position on General Assembly bill to authorize ### County council's position on General Assembly bill to authorize county tax ### Outside function, discussion of: ### Making an appointment, rather than approval of a proposed appointment ### Town council's position on General Assembly bill to authorize county tax ### LICENSING MATTERS ### Regulatory body's conduct of occupational licensing examination ### ### J 92-4 ### Generally: Participation by commissioners in party central committee meeting ### J 92-4 ### Betting of entity ### 1 92-2 ### 1 92-2 ### 1 92-2 ### 1 95-10 ### 1 96-3 ### 1 96-10

SUBJECT	Vol.	Opn.	Page
◆ "Meeting" (Cont'd.)			
 Determined to be a meeting: Announcement, by chairman, at social gathering of planned process for handling topic 	3	01-2	78
Convening of "accidental quorum" to hear briefing about budget process	3	00-8	30
Convening of quorum of council during course of informally designated subgroup meeting	6		155
Convening of quorum for purpose of informal identification of consensus about an issue	3	01-2	78
Convening of quorum with Governor's staff during legislative session	5		28
Discussion of means of discerning resident's reaction to annexation proposal	4		168
Future meeting agenda discussion	3	01-2	78
Information-gathering at the earliest stages of policy formulation	1 1 1	93-6 95-7	23 35 129 206
Initial meeting of advisory board	5		60
Opportunity for a public body's quorum to explore issues as a group and exchange comments and reactions	2	98-2	5
Retreat at which matters of public business were discussed	3	01-10.	122
Training session focused on particular public body's practices	5		33
 Determined not to be a meeting: Breakfast gathering before an open meeting at which public business was not conducted 	3	03-2	257
Budget retreat called by Mayor at which council members attended	3	02-14.	242
Celebratory dinner following swearing in of officials at which public business not considered	5		93

SUBJECT	Vol.	Opn.	Page
◆ "Meeting" (Cont'd.)			
 Determined not to be a meeting: (Cont'd.) Conference in which each board member participated in a separate small group discussion 	3	01-17.	150
Conversation among quorum limited to personal information or social "small talk"	1 2		129
Dinner at which quorum attended but discussion limited to social matters	3 4	02-11.	224
E-mail canvass of members	2	99-15.	78
Gathering limited to effort at improving interpersonal relations	3	03-5	274
Informal gathering before a meeting or during a break, so long as no discussion occurs about meeting topics	1 1 1	95-6	92 127 157
Members-elect not considered in determining presence of a quorum	5		93
Private entity's session at which members of public body did not convene to discuss public business	3	03-12.	310
Quorum not present or convened	4 4 5	94-10. 95-10. 96-1 97-4 97-12. 97-13. 99-5	49 92 191 51 114
Retreat limited to discussion of interpersonal relations and social conversation	6		63
School Board's attendance at County Council meeting for sole purpose of answering questions	6		77

Subject	Vol.	Opn.	Page
◆ "Meeting" (Cont'd.)			
♦ Determined not to be a meeting: (Cont'd.) Social event with general topical presentation	1	97-7	227
Social event at which public business is mentioned only briefly and in passing and is not discussed	2 2 2	99-13.	5 74 80
Training session limited to general topics	5		33
◆ MINUTES			
Generally Access to sealed minutes by individual member of public body in public body's discretion	5		105
Level of detail required	6		164
Method by which minutes are prepared or amended, within public body's discretion	1	94-2	63
Posting on public body's website, not required	3 6 6	03-18.	340 187 203
Preparation following all meetings, required	4 4		74 120
Preparation following session without quorum, not required	5		1
Preparation via alternative method required when unusual circumstances preclude preparation through customary means	4		24
Preparation within reasonable time, required		99-18.	
Public body that meets only periodically responsible for ensuring minutes available within reasonable time	6		164
Public entitled to assume approved minutes accurate	6		145
Tape recordings not required but if made, must be retained for at least one year	4		74

SUBJECT Vol. Opn. Page

♦ MINUTES (Cont'd.)

♦ Closed Session Statement

→ Generally Meeting recessed for closed session under administrative function exclusion – Required disclosures	6 171
Written statement prepared in closing meeting and subsequent disclosure as part of minutes distinct requirements	5165
→ Practices permitted Preserving confidentiality justifying closed session	1 92-516 1 94-573 1 95-1110
Protecting identity of business considering relocation	2 99-960
+ Practices in violation Changing justification for closed session	5177
Failure to cite authority for closing a session or to list the topic of discussion and the persons present	1 94-263
Failure to identify attendees and to provide other required information	1 94-367 3 02-15245 61
Failure to identify certain attendees involved in business location discussion even by generic description	586
Failure to include description of any action taken during closed session	438
Failure to include statutory citation	623
Failure to prepare minutes of closed sessions or to disclose summary about closed sessions	3 03-20352 598
Failure to report required information as single item	6

Subject	Vol.	Opn.	Page
MINUTES (Cont'd.) ♦ Closed Session Statement (Cont'd.)			
+ Practices in violation (Cont'd.) Inadequate description/information	4 5 5 6	02-2	76 114 139 165 189 1
Reusing written statement prepared prior to closing session	3	02-7	202
<i>♦ Contents</i>			
→ Practices permitted Brief description of required elements	4		46
Omitting confidential information from summary of topics discussed and actions taken at closed session	1 2	95-1 . 98-5	110
Transcript disclosure as minutes	1	96-4	162
Transcript not required	6		110
→ Practices in violation Action and votes taken, failure to include	3	01-19.	164
Administrative function disclosure, no detail beyond "administrative matters"	6		96
Dissenting votes, failure to include	1	96-2	155
Information about topics discussed, failure to include	1 2		110
Item of business conducted, failure to include	1	94-2	63
Required elements, failure to include	3 3 3	01-5	8 96 233
Specific statutory authority for closing a session, failure to include	1	94-5	73
Tape recording disclosure in lieu of minutes	2 2		87 92

SUBJECT Vol. Opn. Page

♦ MINUTES (Cont'd.)

♦ Procedures

 Practices permitted Atypical, brief delay in availability of minutes attributable to unusual workload 	6	47
Delay in approval of closed session minutes	4	1
Disclosing minutes of a meeting closed to discuss a specific personnel matter	2	98-416
Preparing closed session minutes by the time of the public body's body's next regularly scheduled meeting	1	95-3117
Preparation time beyond 10 days after meeting	3	01-385
Preparation time of five weeks	3	03-18340
Taking a reasonable amount of time to review draft minutes for accuracy and to approve them	2 2	98-311 99-1887
Prohibiting inspection of draft, unapproved minutes	2	98-311
Relatively brief delays in preparing minutes, attributable to staffing constraints	2	99-1992
+ Practices in violation Failure to approve minutes of closed sessions	5	105
Failure to approve minutes without undue delay	4 5	01-596 1 14 118
Failure to prepare for meeting limited to procedural matters only	5	50
Failure to prepare minutes	5 5 5	
Failure to produce	6	203

SUBJECT	voi. Opii. Fage
♦ MINUTES (Cont'd.) ♦ Procedures (Cont'd.)	
+ Practices in violation (Cont'd.) Failure to review and approve minutes	3 00-38 3 03-10303 4120 647 6187
Failure to timely disclose	5184
Lag time of nearly 4 months in approving minutes	685
Requiring member of public to submit written request for open session minutes	3 01-385 514
♦ Notice requirements	
\$\Delta Applicability\$ Failure to provide notice: violation	3 01-596 51
Notice of cancelled meeting: may be omitted if notice of meeting had not been given originally	3 01-19 164
Notice required in advance of conference call dependent on whether quorum could be anticipated or in fact occurred	617
Notice required of scheduled meeting even if quorum does not in fact convene	3 03-13314 51
♦ Content Agenda information: not required	1 92-5
Anticipated closed session: should be included	3 00-38

SUBJECT Vol. Opn. **Page** ◆ Notice requirements (Cont'd.) *♦ Content* (Cont'd.) Closed session not anticipated until shortly before meeting: Failure to reflect in notice not violation 02-6....197 Explanation of why meeting is expected to be closed: not required Omission of name of public body and place of meeting: violation Omission of time or place of meeting or both; violation 94-4.....69 One-time publication of schedule of anticipated meeting times, if 1 coupled with posted notice of each meeting: permitted Prince George's County Council: role as district council need not be specified 2 98-9....31 03-9.... 297 3 Revision of prior meeting notice: not required for immediately scheduled closed session Variation from published agenda does not violate Act *♦ Method* + Practices permitted Announcement of future meeting at open meeting attended by 93-5.....33 4......28 Announcement at public meeting coupled with written notice to 02-4.... 188 3 Information provided to public via generally distributed newsletter 02-6.... 197 3 and posted agenda 03-4....264 Multiple channels of distribution 3 01-14.... 143 Newspaper advertisement and public posting 3 96-5.....166 Notice via cable television if public is informed and if a written 1 version is available Notice to press and others at open session of intention to hold 3 02-15....245 unanticipated closed session Notice via some legally sufficient method no less legally valid even 6.....9 if it differs from method routinely used

Subject	Vol.	Opn.	Page
Notice requirements (Cont'd.)			
+ Practices permitted (Cont'd.) Notice via state agency's press release	2	98-8	27
Notice by task force affiliated with State agency via agency's website calendar	6		15
Notice to newspaper that is the primary source for reporting on government activities in community	6		32
Omitting notice of meeting cancellation when meeting is cancelled because quorum fails to attend	3	02-4	188
Omitting notice to reporters if another means of notice has been provided	1	97-9	237
Oral announcement of legislative committee's immediate meeting during last few days of General Assembly session	4		147
Posting in a single location if public is told of the practice	1 1 2 2	93-4 98-5	10301884
Posting outside of town hall	6		196
Proper written notice satisfied Act notwithstanding misinformation allegedly provided by staff member to one member of public	5		117
Public body has discretion in selecting appropriate media outlet	6		164
Public body that had previously provided notice via website did not incur new obligations under 2007 legislation	6		41
→ Practices in violationFailure to deliver notice to news media	4		88
Failure to notify public of canceled meeting	1	96-11.	186
Failure to provide notice of "continued" meeting	5		184
Failure to retain copy for one year	6		89
"Informed verbal" notice	4		140
Notice to public body members only	3 4	01-4	92 178

SUBJECT	Vol.	Opn.	Page
Notice requirements (Cont'd.)			
+ Practices in violation (Cont'd.) Posting in a location not described previously to public	4		88
Staff's clerical error resulting in failure to post notice	1	93-8	44
<i>♦ Timing</i>			
→ Generally Original and revised notices must be timely	3	01-3	58
Prompt scheduling of meeting does not excuse failure to provide notice	1	96-10.	183
Public must be informed when time of meeting is changed	2	99-7	52
Scheduling of meeting on short notice requires best public notice feasible under the circumstances	1 2 2	98-3	38
→ Practices permitted Deciding that meeting is needed on short notice	4 5		51
Late notice to news media when other forms of notice made available earlier	3	00-13.	58
Meeting continued following night - announced during prior day's session and posted next day	5		139
Notice advertised two business days in advance of meeting if promptly provided on scheduling of meeting	5		83
Notice given soon after scheduling of meeting for next day	4		12
Notice of Tuesday meeting posted n preceding Friday	4		99
Notice of Wednesday meeting posted on preceding Friday	2	98-5	18
Notice provided 5 days before meeting, absent any evidence suggesting intentional delay	6		85
Notice posted 6 days before meeting, absent any evidence of intentional delay	6		110
Notice to press and others at open session of intention to hold unanticipated closed session	3	02-15.	245

Subject	Vol.	Opn.	Page
NOTICE REQUIREMENTS (Cont'd.) \$\disprecep Timing (Cont'd.)\$			
→ Practices permitted (Cont'd.) Oral announcement of legislative committee's immediate meeting during last few days of General Assembly session	4		147
Same-day notice of urgently called meeting	1 5 6	96-11. 	186 42
Posting notice 6 days before meeting, coupled with announcement at prior meeting	6		47
+ Practices in violation Failure to give timely public notice	4		6
Providing notice only 24 hours before meeting if public body was aware of relevant statutory deadline requiring action	5		139
OPEN SESSION REQUIREMENT			
♦ Generally Accommodation of people with disabilities	1 1 3	97-11.	237 245 233
Manner in which a public body makes decisions at an open session: outside the Act	1	92-5	16
Entire discussion of open session matter, from beginning to end, must be in open session	1 1		73 162
Open meeting must be conducted in a manner that, as a practical matter, does not exclude public	1 1 6		92 162 127
Reopening meeting following erroneous closing required good-faith effort to notify public and press of changed situation	3	01-8	115
♦ Practices permitted Brief delay in permitting access by camera crew	1	96-8	175
Ceasing discussion immediately of newly raised topic that is not permitted to be discussed in closed session	1	95-3	117
Choice of conference room for meeting	3	01-9	118

SUBJECT	Vol.	Opn.	Page
OPEN SESSION REQUIREMENT (Cont'd.)			
 Practices permitted Denying public access to document distributed to members at meeting 	2	99-15.	78
Disallowing public comment on public body's decisions	1 4	97-7	227
Open meeting in conference room after closed session	1	97-6	224
Open meeting in conference room prior to open session in regular meeting room	5		50
Posting of notice that legislative committee is holding a voting session	4		147
Regulating location of cameras set up in hearing rooms	5		154
Rescheduling of meeting to larger site	4		155
 Practices in violation Conducting discussion after announcing adjournment of open session 	1 5	96-4 96-9	178
Conducting discussion during announced recess	4		63
Conducting discussion in advance of scheduled meeting	5		81
Discussing matters beyond those identified in closing a meeting violated open session requirements	6		1
Excluding reporters from meeting open to the public	2	99-11.	67
Failure to provide notice to general public	4 6		178
Meeting in a room off-limits to the general public	4		147
Prohibiting audiotaping of discussion by advisory group	5		60
Prohibiting videotaping by individual not affiliated with the news media	5		22
Prohibiting videotaping of audience at meeting	1	95-9	137
Prohibiting videotaping even if public body makes transcript of meeting available	3	03-21.	356

Subject	Vol.	Opn.	Page
OPEN SESSION REQUIREMENT (Cont'd.)			
 Practices in violation (Cont'd.) Session of county council held without notice and in an unusual meeting place 	1	93-8	44
◆ Public body			
♦ Generally Receipt of public funds: irrelevant to public body status	1 1		186
 Determined to be a public body: Board of legislatively created corporation, intended by the General Assembly to be a governmental entity 	1	97-3	212
Committees comprising residents appointed by resolution of city council	1	94-4	69
Panel of Critical Area Commission	5		189
State Biosolids (Sewage Sludge) Task Force	5		182
Town council members despite their role as heads of departments	3	00-7	26
♦ Determined not to be a public body: Advisory committee appointed by county parks director	3	03-15.	325
Advisory group to county planning	4		132
Board of Baltimore Area Convention and Visitors Association	1 3		196 284
Board of directors of private, non-profit hospital	1	92-2	6
City, county, or school board staff members	1 2 2	98-8	6 27 37
Committee that carries out pre-application review process identified in local law	3	00-9	36
County department County department heads and county commissioners in a county in which commissioners are executive head of county government 1	93-1	10	50
Environmental Assessment Committee of the Baltimore County Public Schools	4		84

Subject	Vol.	Opn.	Page
◆ Public Body (Cont'd.)			
Determined not to be a public body (cont'd.) Individual hearing examiner holding hearing on behalf of zoning board	1	96-8	175
Informally created committee consisting of two jurisdictions' officials	2	98-2	5
Informally created subgroup established by single council member	6		155
"Management Committee" formed pursuant to memorandum of agreement	5		194
Management committee informally established by executive director of the Baltimore Metropolitan Council	6		17
Maryland Public Secondary Schools Athletic Association	4		43
Municipal officials and individual members of city council	1	93-6	35
Political party central committee	3	03-6	278
Private, voluntary association of public officials and others	1	95-4	120
Student government association at public college	2	99-1	35
Subcommittees not formally created	1 2		69 70
Subcommittees of Maryland Bicycle and Pedestrian Advisory Committee	6		140
Wicomico County Council and county department heads	1	97-16.	261
♦ Quasi-judicial function			
 Within the function: Animal control commission proceeding to determine dangerousnes of dog 	s 3	03-3	260
Appellate role of city council in dispute over referendum petition	2	98-1	1
Personnel grievance hearing, if subject to certain judicial review provisions	4		76

SUBJECT	Vol.	Opn.	Page
◆ Quasi-legislative function			
♦ Within the function: Amendment of employment contract	1	95-5	123
Budget review by county legislative body	1 1		44
Franchise reassignment	5 5		7
Review of staff's proposed budget by library board committee	1	97-7	227
 Outside the function: Presentation on topic with likely fiscal implications but not involving budget amendment itself 	4		104
 ◆ RECORDS Act does not govern access to records not required under provisions of the Act 	6		57
Public access to recordings of meetings governed by Public Information Act ,rather than Open Meetings Act	6		164
◆ Scope of Act			
Activity by public body that falls within none of the defined functions: covered by the Act	1 1 1 5	94-10.	96 107 113
Individual actions of presiding officer: not covered by the Act	2	99-12.	70
Library board: covered by Act in addition to provision about meetings in Education Article	5		70
Pen Mar Development Corporation: exempt from some, but not all, provisions of the Act	4		88
Survey of members without convening a quorum : not covered by Act	6		57

SUBJECT	Vol.	Opn.	Page
♦ Z ONING MATTERS			
Permissible use of mobile homes on certain lots	3	02-3	182
Planning	1	92-3	10